

IN THE HOUSE OF REPRESENTATIVES.

FEBRUARY 16, 1871.

Ordered to be printed and recommitted to the Committee on Reconstruction.

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## **AMENDMENT**

In the nature of a substitute, reported by Mr. B. F. BUTLER from the Committee on Reconstruction, to the bill (H. R. 3011) to protect loyal and peaceable citizens of the United States in the full enjoyment of their rights, persons, liberty, and property, and to enable such citizens to preserve and perpetuate the evidence of losses claimed to have been sustained by them in the war in the States lately in rebellion.

Whereas large numbers of lawless and evil-disposed persons, especially in the States lately in rebellion, having conspired together and bound themselves to each other by unlawful oaths, have formed secret organizations, some of which are commonly known as the Ku-Klux Klan, having for their main object to defeat certain classes of citizens of the United States in the liberty, rights, and equal protection of the laws guaranteed by the Constitution; and whereas, by the use of disguises worn upon their persons, by perjury, violence, threats, overawing the local authorities, and otherwise, such persons and organizations, their aiders and abettors, have evaded and set at defiance the power of the States wherein they exist, and

thus with impunity have deprived, and still do deprive, peaceable citizens of the enjoyment of life, liberty, and property without due process of law, and have taken from them, and do still take from them, the equal protection of the laws, by which means such peaceable citizens have been made to do acts against their will, and forego their just rights and freedom of action, as their only means of escape from death or great bodily harm at the hands of such persons and organizations; and whereas the States have failed and still fail to prevent or suppress such violations of law and denial of the liberty, rights, and protection guaranteed by the Constitution of the United States to persons within their respective jurisdictions; and whereas it has been thus rendered imperative on Congress to enforce all constitutional guarantees by appropriate legislation: Therefore,

1        *Be it enacted by the Senate and House of Representa*  
2        *tives of the United States of America in Congress assembled,*  
3        That the several circuit courts of the United States in the  
4        States of Alabama, Arkansas, Florida, Georgia, Mississippi,  
5        North Carolina, South Carolina, Tennessee, Texas, Virginia,  
6        and Kentucky, when the circuit judge is sitting therein, are  
7        authorized, and it is made their duty, to appoint commis-  
8        sioners in their respective circuits to a number not exceeding  
9        one for each county therein, and one for each city exceeding the  
10       number of twenty thousand inhabitants, and in the State of  
11       Louisiana for each parish therein, and two for the city of  
12       New Orleans; which commissioners shall have all the rights,  
13       powers, and jurisdiction conferred by any act of Congress

14 upon commissioners appointed by the circuit court of the  
15 United States, so far as they may be applicable, to perform,  
16 exercise, discharge, and carry out all the authorities, powers,  
17 and duties imposed upon them by this act. Said commis-  
18 sioners shall be learned and discreet persons, and have the  
19 same compensation for their services under this act as are  
20 now provided by law for duties and services of like  
21 character, when performed by such commissioners, to  
22 be audited and paid in like manner as other like accounts  
23 are paid; and said commissioners shall hold their offices upon  
24 the same tenure as other commissioners appointed by said  
25 circuit courts; and after their appointment, each of them shall  
26 reside in the county for which he is appointed, so long as he  
27 shall hold his commission.

1       SEC. 2. *And be it further enacted*, That in addition to  
2 the duties which now are, or which have been, or may here-  
3 after be, prescribed by law for said commissioners, it shall be  
4 the duty of each of said commissioners, upon information of any  
5 outrage committed or wrong done against the liberty, property,  
6 or person of a citizen of the United States within his pre-  
7 cinct, with intent to hinder, impair or deprive such citizen of  
8 the full enjoyment of any right guaranteed to him under the  
9 Constitution of the United States, or of any violation of any  
10 of the provisions of this act, to issue a warrant, or other  
11 proper process, under his hand and seal, forthwith to bring

12 the offender or offenders before said commissioner, and after  
13 due examination whether there is propable cause to believe  
14 such offense has been committed, if the commissioner shall  
15 be satisfied of such probable cause, and that the accused per-  
16 sons are probably guilty, the commissioner shall bind the  
17 offender or offenders by recognizances with good and suffi-  
18 cient sureties, each having sufficient estate within the district,  
19 in a penal sum not less than one thousand nor more than ten  
20 thousand dollars, (if the offense isailable under the  
21 laws of the United States,) with condition that the accused  
22 party shall appear and answer to the offenses charged  
23 at the term of the circuit court of the United States next to  
24 be held in or for the district where the offense is committed,  
25 and so from time to time until the final order of the court  
26 thereon, or of any court to which appeals may be taken, and  
27 in the mean time to keep the peace and be of good behavior  
28 toward all citizens of the United States; and said commis-  
29 sioner shall have power to bind by recognizance any person in  
30 such sum, with or without surety or sureties, as he may deem  
31 best for the purposes of justice, as a witness to appear before  
32 such court to give testimony at said term in that behalf, and  
33 so from term to term until he be discharged thereof; but if  
34 the offense be notailable by the laws of the United States,  
35 or if the accused shall not furnish such sufficient sureties, then  
36 the commissioner by a mittimus, or other proper process, shall

37 commit the offender or offenders to the custody of the mar-  
38 shal, to be brought before the circuit court at its next term,  
39 there to abide the order of the court, and such mittimus or  
40 other process so issued shall be conclusive to prevent all mo-  
41 lestation or hindrance of the marshal or his deputy having  
42 the accused in charge, from holding him by any process issued  
43 by any court, judge, magistrate, or any person whatsoever:  
44 *Provided, however,* That the commissioner may at any time be-  
45 fore the session of such court admit to bail any person by him  
46 committed to the custody of the marshal for want of sufficient sure-  
47 ties; and each of said commissioners shall transmit to the clerk  
48 of said circuit court, on or before the first day of said term of  
49 said court, attested copies of all the proceedings had by him  
50 in this behalf, and also attested copies of all depositions, affi-  
51 davits, or testimony taken by him in the hearing as to prob-  
52 able cause to believe such offenses have been committed, and  
53 of the probable guilt of the accused; and it shall be the duty  
54 of the clerk of said circuit court to place such copies so trans-  
55 mitted to him in the hands of the district attorney for the  
56 district wherein the offense was committed, who is required  
57 diligently to prosecute all the offenses therein set forth, and  
58 to see to it that the party or parties and the witnesses perform  
59 the obligations of their several recognizances, and in case of  
60 default by the witnesses, or either of them, to have them  
61 arrested by the proper process and brought before the grand

62 jury to testify, and their recognizances estreated; and if the  
63 accused, being on bail, shall have made default, to cause his  
64 or their recognizances to be estreated, and to cause judgment  
65 to be entered up thereon, and speedily to enforce the same,  
66 and to cause the accused to be arrested wherever he may be  
67 found, and brought to trial; and said commissioners are also  
68 hereby empowered to do all and such other acts as are  
69 requisite and necessary for the full presentation of the offend-  
70 ers and the evidence before the grand jury of said circuit  
71 court. It shall also be the duty of each commis-  
72 sioner to transmit duplicate copies of all his proceedings,  
73 together with the evidence taken by him, affidavits, and depo-  
74 sitions, and other documentary evidence, to the Department  
75 of Justice at Washington, to be therein filed of record. And  
76 in case of the death, sickness, absence, refusal, or neglect to  
77 act, or other disability of the commissioner in any county, all  
78 his power and duties may be exercised by either commissioner  
79 of an adjacent county.

1       SEC. 3. *And be it further enacted,* That it shall be the  
2 duty of all marshals and deputy marshals to obey and execute  
3 all warrants and precepts issued under the provisions of this  
4 act, when to them directed; and should any marshal or deputy  
5 marshal refuse to receive such warrant, or other process, when  
6 tendered, or use all proper means diligently to execute the  
7 same, he shall on conviction thereof, be fined in the sum of

8 one thousand dollars, to the use of the informant, on the mc-  
9 tion of such informant, by the circuit court for the district of  
10 such marshal; and after arrest of any person by such mar-  
11 shal or his deputy, or while in his custody, under the pro-  
12 visions of this act, should such person escape, whether with  
13 or without the assent of such marshal or his deputy, such  
14 marshal shall be liable on his official bond, to be prosecuted  
15 for the benefit of any person injured, for the full damages done  
16 to any injured person by the escaped person or his confede-  
17 rates, in the State or district where the offense was committed;  
18 and, the better to enable the said commissioners, when thus  
19 appointed, to execute their duties faithfully and efficiently, in  
20 conformity with the Constitution of the United States, and of  
21 this act, they are hereby authorized and empowered, within  
22 their counties respectively, to appoint in writing, under their  
23 hands, any one or more suitable persons, from time to time,  
24 to execute all such warrants and other process as may be  
25 issued by them in the lawful performance of their respective  
26 duties, with authority to such commissioners, or the persons to be  
27 appointed by them, to execute process as aforesaid, to summon  
28 and call to their aid the bystanders or posse comitatus of the  
29 proper county when necessary to ensure a faithful observance  
30 of the several clauses of the Constitution referred to, in con-  
31 formity with the provisions of this act; and the marshal and  
32 his deputies, and the persons so appointed, shall be paid for

33 their services the like fees as may be allowed to such officers  
34 for similar services ; and all good citizens are hereby com-  
35 manded to aid and assist in the prompt and efficient execu-  
36 tion of this law, whenever their services may be required as  
37 aforesaid for that purpose, under the pains and penalties herein-  
38 after provided ; and said warrants shall run, and be executed  
39 by said officers, anywhere in the State within which they are  
40 issued ; and said commissioners may call upon the President  
41 of the United States, or upon such person as may be in com-  
42 mand of the nearest land or naval forces of the United  
43 States, or of the militia, or such part thereof as he may deem  
44 necessary, to enforce the complete execution of this act and  
45 the lawful orders and process of said commissioners, and with  
46 such forces may cause to be pursued, arrested, and held for  
47 examination and trial all persons charged with a violation of  
48 the same, and enforce the attendance of witnesses on such  
49 examination and trial, and with such forces may cause to be  
50 disbanded and dispersed all combinations of persons conspir-  
51 ing and banding together for the purpose of violating any  
52 provision of this act ; and said call for aid upon the military  
53 or naval forces or militia shall be promptly answered by the  
54 commander thereof until he shall be otherwise ordered by  
55 the President, under penalty of being punished for such neg-  
56 lect of duty and the requirements of this act as for a high  
57 misdemeanor, as hereinafter provided.



1        SEC. 4. *And be it further enacted*, That whoever shall be  
2 found on the public highway, or on the land or near the  
3 dwelling occupied by another, in any disguise, whether armed  
4 or unarmed, alone or in combination with others, with intent  
5 to do any injury to the person or property of another, or in  
6 numbers, either armed or unarmed, with intent to terrify,  
7 frighten, or overawe any person or persons, so as to hinder or  
8 prevent them from the peaceful enjoyment of their legal  
9 rights or privileges, shall be deemed guilty of a high misde-  
10 meanor if the offense is committed in the day-time, or of a  
11 felony if the same shall be committed in the night-time, and  
12 shall, upon conviction, be punished for such misdemeanor or  
13 felony as hereinafter provided.

1        SEC. 5. *And be it further enacted*, That whoever, being  
2 disguised with the intent set forth in the preceding section  
3 shall break or enter any building of another, or shall shoot  
4 at such building with any fire-arm, or shall set fire to, or  
5 threaten to set fire to, any building of another, or shall as-  
6 sault, or threaten to assault, or shall beat, wound, bruise, or  
7 ill-treat any person, shall, if done in the night-time, he or his  
8 associates, or either of them, being armed, be deemed guilty  
9 of a felony; and if such offense is committed by numbers  
10 combined together, each and every person so combining, what-  
11 ever part may have been taken by each, shall be deemed and  
12 held to be principal therein; and if any homicide shall ensue,

13 or arson of a dwelling-house shall by either of the persons so  
14 combining be done, each and every offender shall be deemed  
15 to be guilty of a capital felony at common law, and upon  
16 arrest and finding by the commissioners of probable cause,  
17 shall be committed to close custody of the marshal for trial,  
18 without bail or mainprise, and on conviction shall be punished  
19 as hereinafter provided.

1       SEC. 6. *And be it further enacted,* That whoever shall  
2 confederate, combine, or conspire together to coerce, hinder,  
3 or compel any person or persons, citizens of the United States,  
4 by any means whatsoever, to do any act, or to refrain from  
5 doing any act, which such person has a lawful right to do or  
6 refrain from doing, or to injure any citizen of the United  
7 States in his person or property or rights of property because  
8 he has done or refrained from doing any act that he has  
9 a right to do, or refrain from doing, shall be deemed to be  
10 guilty of a high misdemeanor, and, on conviction, be pun-  
11 ished therefor in the manner hereinafter provided. And who-  
12 ever shall come from one State or district of the United  
13 States into another State or district of the United States for  
14 the purpose of doing any act or thing inhibited by the provi-  
15 sions of this act, may be arrested in any district of the United  
16 States where he may be found, and sent for trial to the  
17 district where he shall have committed said act; and upon the  
18 allegation in the indictment for such offense that the person

19 so offending came from one State or district for the purpose of  
20 doing any of the acts herein inhibited being found by the  
21 jury on trial, he shall be deemed and held guilty of a felony,  
22 and, on conviction, be punished as hereinafter provided; but  
23 if such allegation shall not be found by the jury, then he  
24 shall be punished in the same manner as is provided herein  
25 in case of the State where the offense was committed.

1       SEC. 7. *And be it further enacted,* That whoever shall  
2 intimidate, treat with violence, refuse to employ, discharge  
3 from employment, threaten with personal harm or injury in  
4 property any citizen of the United States, with intent to hin-  
5 der or restrain such citizen of the free exercise of any right  
6 as such citizen, or who shall do either of the acts last above  
7 mentioned to any citizen of the United States because of his  
8 having freely exercised any of his rights as such citizen, shall  
9 be deemed to have been guilty of a misdemeanor, and, in ad-  
10 dition to the other punishment hereinafter provided, shall be  
11 liable, at the suit of the party injured, for all damages by him  
12 sustained in consequence thereof, to be recovered by suit in  
13 the circuit court of the United States for the district where  
14 such offense was committed.

1       SEC. 8. *And be it further enacted,* That whoever shall  
2 without due process of law, by violence, intimidation, or  
3 threats, take away or deprive any citizen of the United States  
4 of any arms or weapons he may have in his house or posses-

5 sion for the defense of his person, family, or property, shall  
6 be deemed guilty of a lareny thereof, and be punished as  
7 provided in this act for a felony.

1       SEC. 9. *And be it further enacted,* That whoever shall  
2 join or become a member of any secret organization wherein  
3 an oath as hereinafter described is required to be taken, or  
4 shall, as a member thereof, administer or take any oath or  
5 affirmation or other obligation, or be present when such oath,  
6 affirmation, or other obligation shall be administered or taken  
7 binding any person to commit or conceal, or aid in commit  
8 ting or concealing, any of the offenses described in this act, or  
9 restraining any person from disclosing any act or offense made  
10 penal by this act, or binding any person to shield or aid in  
11 any manner any offender against the provisions of this act,  
12 he shall be deemed guilty of a felony, and upon conviction  
13 punished as provided in this act for such offense.

1       SEC. 10. *And be it further enacted,* That whoever shall  
2 counsel, aid, or abet the commission of any offense set forth  
3 in this act, or who shall knowingly conceal, or aid in conceal-  
4 ing the same, or aid in concealing the offender or offenders,  
5 or shall hinder or obstruct any officer in causing accused per-  
6 sons to be arrested, or being arrested shall rescue or aid in  
7 rescuing any accused party, or who shall instigate or counsel  
8 such rescue, shall, upon conviction thereof, be punished in the  
9 same manner and to the same extent as a principal in the

10 offense so aided, abetted, counseled, concealed, or attempted  
11 to be concealed, or with which the party rescued or attempted  
12 to be rescued stood charged, and may be tried, convicted,  
13 and punished therefor, whether the principal offender has been  
14 arrested or tried and convicted or otherwise.

1       SEC. 11. *And be it further enacted,* That whenever, in  
2 either of said States, any citizen of the United States shall  
3 suffer loss, damage, or injury in his person or property be-  
4 cause of any of the offenses declared in this act, when com-  
5 mitted by any combination or number of men, whether dis-  
6 guised or otherwise, armed or unarmed, acting in concert, the  
7 person so suffering loss, damage, or injury may bring a suit  
8 in the circuit court of the United States against the inhabit-  
9 ants of the county, city, or parish, if in the State of Louisiana,  
10 in which the unlawful acts of which he complains may have  
11 been done, as if the inhabitants were a corporation, and in  
12 case of the death of the party injured his wife or next of  
13 kin may bring such suit, to whom also the action shall  
14 survive if death happens after suit brought, and shall  
15 recover against said defendant in the suit the full amount of  
16 said loss, damage, or injury, to be assessed by a jury in  
17 said court, and judgment shall be entered upon the verdict,  
18 unless the same is set aside for good cause, with cost of suit,  
19 and execution issued thereupon, which shall run against and  
20 may be levied upon and satisfied out of the goods and estate

21 of any individual inhabitant of the defendant county, city, or  
22 parish, at the election of the plaintiff; and the person whose  
23 property shall be so taken or levied upon shall have remedy  
24 for reimbursement over and above his just share, against one  
25 or more of his co-inhabitants, by bill in equity for contribution,  
26 to which, upon the motion of any person interested, the city,  
27 county, or parish may be made a party. If, upon the trial, it  
28 shall appear that the perpetrators of the offenses from which  
29 the injury, loss, or damage happened have not been brought  
30 before the State courts and tried and punished for such  
31 offense, it shall be the duty of the judge of said circuit court  
32 to enter judgment for double the amount of damages found  
33 by the jury, and issue execution therefor, with costs of suit.

1       SEC. 12. *And be it further enacted*, That whoever shall  
2 be convicted of any offense named and deemed in this act as  
3 a misdemeanor shall be punished by a fine not less than five  
4 hundred dollars nor more than one thousand dollars, and im-  
5 prisonment not less than six months nor more than one year,  
6 at the discretion of the court. Whoever shall be convicted  
7 of any offense named and deemed a high misdemeanor in this  
8 act shall be punished by a fine not less than one thousand nor  
9 more than five thousand dollars, and by imprisonment not  
10 less than one year nor more than five years, at the discretion  
11 of the court. Whoever shall be convicted of any offense named  
12 or deemed a felony in this act shall be punished by a fine not

13 less than five thousand dollars nor more than ten thousand  
14 dollars, and imprisonment at hard labor not less than five  
15 years nor more than twenty years, at the discretion of the  
16 court. Whoever shall be convicted of any offense named and  
17 deemed a capital felony in this act shall be punished by hang-  
18 ing by the neck until he be dead, at such time as the court  
19 shall order. And the circuit court of the United States shall  
20 have exclusive jurisdiction of all the offenses, recognizances,  
21 suits, and proceedings named and described in this act, to be  
22 exercised when sitting in or for any district in which such  
23 offense may have been committed, or of any cause in which  
24 plaintiff or complainant in any suit or proceeding resides, or  
25 in case of recognizance in the district wherein the same was  
26 taken and returned, and all proceedings upon such recog-  
27 nizance and judgments thereon shall be according to the  
28 course of the common law. And the commissioners above  
29 named shall have concurrent jurisdiction with judges of the  
30 circuit and district courts of the United States within their  
31 respective circuits and districts, in term time as well as  
32 vacation, to cause to be arrested and stayed all violators of  
33 of any of the provisions of this act, and to receive petitions  
34 for claims as provided in this act. And before examination  
35 and trial of any of the offenses declared, or suits provided  
36 for in this act, each grand juror and each petit juror, as well  
37 in such civil suits, shall take in open court, as part of his oath

38 of office, the oath set forth in the act entitled "An act to  
39 prescribe an oath of office, and for other purposes," passed  
40 July two, eighteen hundred and sixty-two. And all costs,  
41 fees, and expenses of commissioners, of officers, clerks, wit-  
42 nesses, and parties under this act, shall be certified by said  
43 circuit courts as in other civil and criminal cases in such  
44 courts.

1       SEC. 13. *And be it further enacted*, That every citizen  
2 of the United States resident in the before-mentioned States  
3 during the late rebellion, who was well-disposed and loyal to  
4 the Government of the United States, and so remained during  
5 said rebellion, who claims to have suffered loss in his prop-  
6 erty or person because of or growing out of the war of the  
7 rebellion other than for loss of slaves, may at any time before  
8 the first day of May, in the year of our Lord eighteen hun-  
9 dred and seventy-three, apply to a commissioner of the United  
10 States hereinbefore provided for the county where he resides,  
11 by petition setting forth the nature and extent of his claim in  
12 a summary manner, and that he has been and remained,  
13 and still remains, such well-disposed and loyal citizen.  
14 Whereupon said commissioner, upon the reception of such  
15 petition, shall administer an oath to the claimant, to be signed  
16 by him, to the truth of all the facts set forth in such petition,  
17 and shall file the same as of record, and shall examine any  
18 persons well disposed and loyal to the Government of the



19 United States, who shall be produced as witnesses in aid of  
20 such claim, reduce their testimony to writing, and cross-  
21 examine, so far as he may deem it necessary to elicit the truth  
22 in that behalf, and protect the United States against any  
23 fraudulent claim, which testimony shall be signed by the wit-  
24 nesses, and filed with the other papers in the case, together  
25 with any documentary evidence in support thereof, that may  
26 be presented, and transmitted to the Department of Justice,  
27 at Washington; and an official copy of said petition, and all  
28 the testimony in support thereof, shall be entered in a book  
29 kept for that purpose by the commissioner, and retained by  
30 him. It shall also be the duty of the commissioner to file a  
31 brief memorandum with the other papers in the case, giving  
32 his own opinion as to the loyalty and good character of the  
33 claimant, and of the witnesses in support of said claim, which  
34 shall be recorded and transmitted with the other papers in  
35 the case.

1       SEC. 14. *And be it further enacted*, That it shall be the  
2 duty of the Attorney General to cause the petition and all  
3 the other papers in each claim to be filed as of record in the  
4 Department of Justice, and to be carefully indexed for easy  
5 reference thereto, and to cause the same to be reported in print  
6 to Congress at the next session after their reception, which  
7 printed copies shall be used as evidence so far as they may  
8 avail before any committee of either House of Congress in  
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9 the presentation and examination of such claim. And all  
 10 claims not so presented before said first day of May, eighteen  
 11 hundred and seventy-three, shall be forever barred.

In the nature of a substitute, reported by Mr. B. F. BUTLER from the Committee on Reconstruction, to the bill (H. R. 3011) to protect loyal and peaceable citizens of the United States in the full enjoyment of their rights, persons, liberty, and property, and to enable such citizens to preserve and perpetuate the evidence of losses claimed to have been sustained by them in the war in the States lately in rebellion.

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